

REMARKS/ARGUMENTS

Claims 1-70 are pending in the application. Claims 1-70 stand rejected as obvious under 35 U.S.C. § 103(a).

Claim Rejections - 35 U.S.C. §103

Claims 1-70 stand rejected as obvious over Kawan (US 2002/0065712) in view of Kalthoff (6,026,382) under 35 U.S.C. §103(a). The rejection is respectfully traversed and reconsideration is requested.

Statement Of Common Ownership Of, Or An Obligation For Assignment To, The Same Person(s) Or Organization(s) Under 35 U.S. §103(c)

The present application Serial No. 09/684,096 was filed October 6, 2000 claiming priority to Applicants' U.S. Provisional Application No. 60/158,113 filed October 7, 1999. The Kawan reference asserted by the Examiner was filed January 21, 1999 claiming priority to U.S. Provisional Application No. 60/073,093 filed January 30, 1998 and was published on May 30, 2003. The invention of the present application Serial No. 09/684,096 and the invention of the published Kawan reference were, at the time the invention of the present application was made and at all times before and since, owned by Citicorp Development Center, Inc. Therefore, the primary reference, Kawan, asserted by the Examiner is disqualified under 35 U.S.C. §103(c) from being used as prior art under 35 U.S.C. §102(e) in a rejection under 35 U.S.C. §103(a) against the claims of the present application.

With regard to independent claims 1 and 36, the Examiner asserts the Kawan reference as disclosing each and every element except determining that the ATM user comprises a non-customer, which the Examiner considers to be taught by Kalthoff. Inasmuch as the Kawan reference is disqualified from being used as prior art under 35 U.S.C. §102(e) in a rejection under 35 U.S.C. §103(a) against the claims of the present application, and Kalthoff does not disclose or suggest the required combination of limitations of independent claims 1 and 36, the Examiner has failed to establish the required *prima facie* case of unpatentability. See In re Royka, 490 F.2d

981, 985 (C.C.P.A., 1974) (holding that a *prima facie* case of obviousness requires the references to teach all of the limitations of the rejected claim); See also MPEP §2143.03.

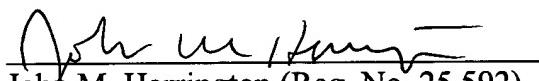
The Examiner has failed to establish the required *prima facie* case of unpatentability for independent claims 1 and 36, and similarly has failed to establish a *prima facie* case of unpatentability for claims 2-35 that depend on claim 1 and claims 37-70 that depend on amended claim 36, and which recite further specific elements that have no reasonable correspondence with the references.

Conclusion

In view of the foregoing amendment and these remarks, each of the claims remaining in the application is in condition for immediate allowance. Accordingly, the examiner is requested to reconsider and withdraw the rejection and to pass the application to issue. The examiner is respectfully invited to telephone the undersigned at (336) 607-7318 to discuss any questions relating to the application.

Respectfully submitted,

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